

FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX
APPELLATE DIVISION**

ANDREW EVANS,)	
)	D.C. CIV. APP. NO. 2003/126
Appellant,)	Re: Super.Ct. Civ. 388/2002
)	
v.)	
)	
R&G MORTGAGE CORP.,)	
)	
Appellee.)	
_____)	

ORDER OF THE COURT

THIS MATTER is before the Court on motion by the appellant for attorney's fees and costs of \$11,892.50 associated with this appeal.

Our rules governing appellate procedure provide that, where a judgment is reversed on appeal, "reasonable costs" are to be taxed to the appellee. See V.I.R. App. P. 30(a). That rule specifically contemplates attorney's fees within the costs that may be so taxed. See *id.*; see also, *Feddersen v. Feddersen*, 191 F.R.D. 490, 491 n. 2 (D.V.I. App. Div. 2000).

What constitutes "reasonable costs" is a matter left to this Court's discretion. See VIRAP 30(a). In making that determination, courts have looked to: the time and labor required, the novelty and difficulty of the issues involved, the level of skill needed to properly conduct the case, the customary charges of the bar for similar services, the amount involved in

the controversy, the benefits resulting to the client from the services, and the contingency or certainty of the compensation. *See Lucerne Investment Co. v. Estate Belvedere, Inc.*, 411 F.2d 1205,1207 (3d Cir. 1969); *Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 168 (3d Cir. 1973).

In this instance, the issues presented on appeal were neither unique nor complex, as the appellant acknowledges. Indeed, they surrounded the appropriateness of the trial court's procedures and required mere application of procedural rules. The simplicity of the issues presented is underscored in the appellant's slim nine-page brief. The entire brief included citations to only two cases, both of which appeared in the standard of review. The appellant's five-page reply was similarly brief. Moreover, there was only a limited record below requiring review by the appellant in preparation for this appeal, given the procedural posture of this case. Significantly, there was a settlement agreement between the parties, resulting in dismissal prior to trial and a subsequent unsuccessful attempt to set aside that dismissal, which became the subject of this appeal. The appellate issues further required only a brief memorandum opinion by this Court. In light of the lack of complexity of the case, no extraordinary skill was required to prosecute the appeal. Finally, we note that the underlying matter arose over a dispute of just over \$4,800 remaining due on a promissory note, which the appellant paid to the appellee as

part of a settlement agreement. The only remaining issue, then, was whether the dismissal of the matter based on that settlement was inappropriate, given the inability of the appellee to remove the lien from the affected property following receipt of full payment.

Despite the sparse brief submitted, the limited research required as reflected in the absence of case law submitted, and the sole reliance on court rules, counsel claims he was required to invest a total of 38 hours in the preparation of the appellate briefs and appendix. Of that amount, the appellant claims 24 hours were expended in reviewing the record, conducting legal research, outlining issues to be presented, preparing an outline of arguments, preparing a draft for arguments, revising and editing said draft, and preparing a joint appendix. An additional six hours are claimed for further revising and editing a draft, preparing a joint appendix and preparing a final document. Finally, counsel claims eight additional hours for time spent outlining issues for a reply brief, drafting a reply, editing and revising the reply and finalizing a reply.

A review of the supporting documents submitted by counsel shows considerable duplication of numerous tasks. For example, for the development of a nine-page brief, counsel includes multiple charges for an outline, preparing a draft, and revising and editing. Preparation of a joint appendix is also included in that charge. He charges an additional six hours for revising and

editing the same draft noted above and for preparing a final document. He also again includes preparation of a joint appendix. A similar approach follows with the itemization of costs associated with the five-page reply brief, which includes charges for outlining issues, drafting the reply, editing and revising the reply and then finalizing the reply.

In view of the foregoing, this Court concludes that the hours claimed to have been expended in this appeal are excessive and also reflect duplication of efforts which should not be borne by the client or the appellee. Accordingly, the Court will permit recovery of one-third of the requested fees for preparation of the appellate brief and joint appendix and for preparation of the reply brief. That amount reflects a reasonable amount of costs commensurate with the level of effort and skill required to prosecute this appeal. It is, therefore, hereby

ORDERED that the Appellant is awarded **THREE THOUSAND EIGHT HUNDRED DOLLARS (\$3,800.00)** in attorney's fees and **FOUR HUNDRED NINETY-TWO DOLLARS AND FIFTY CENTS (\$492.50)** in costs.

SO ORDERED this 10th day of January, 2007.

FOR THE COURT:

/s/
CURTIS V. GÓMEZ
Chief Judge

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WILFREDO F. MORALES
Clerk of the Court

By: /s/
Deputy Clerk

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